



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold Schwarzenegger**  
Governor

March 3, 2010

Nardy Khan  
County of Orange  
Resources & Development Management  
Department  
300 North Flower Street  
Santa Ana, CA 92702-4048

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE WILKINSON BRIDGE REPAIRS PROJECT, ORANGE COUNTY (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB REF. NO. 302009-14)**

Dear Ms. Khan:

On April 20, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the proposed repair project for the Wilkinson Bridge in unincorporated Orange County. We sent a comment letter on April 24, 2009, which requested that clarifying language be included as an amendment to the application submittal. On June 22, 2009, we received correspondence from Orange County Public Works' (OCPW) Laree Brommer, which sufficiently addressed each comment. On February 8, 2010, we received the final required CEQA documentation from Sonica Kohli from OCPW, which completed the documentation needed to consider certification of the subject project.

This letter responds to your request for certification that the proposed project, described in your amended application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

**Project Description:** The project includes the restoration and stabilization of Harding Creek and Wilkinson Bridge by repairing the eroded channel and the eastern bank of Harding Creek upstream of the bridge and fortifying the resorted bank. The project will include: 1) Bank restoration and stabilization by constructing a 2-foot-wide by 100-foot-long concrete footing within Harding Creek bottom, along the eastern side of Harding Creek, upstream from Wilkinson Bridge, and embedding heavy metal piping posts into

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the concrete footing to form a revetment, and, 2) Placing 36-42 inch diameter rip-rap into the eroded portions of the Harding Creek channel invert, as well as behind the newly installed metal pipe revetment. The project may require the diversion of stream flow within the work area. The project is located within Section 29 of Township 5 South, Range 7 West, of the U.S. Geological Survey *El Toro, California*, 7.5-minute topographic quadrangle map (33°42'37.28" N / -117°37'37.40" W).

Receiving water: Harding Creek

Fill area: 0.07 acres of permanent impact to a perennial stream

Dredge/Fill volume: Not Available

Federal permit: U.S. Army Corps of Engineers Nationwide Permit Nos. 13 & 33.

You have proposed to mitigate impacts to water quality standards as described in your Certification application and subsequent application submittals. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Areas where riparian vegetation is removed will be re-vegetated with native riparian plants.
- The work area will be delineated with fencing or other appropriate means to limit the work area to the smallest possible area necessary to complete the project.
- Construction-phase best management practices (BMPs), such as silt fencing, gravel bags, and vehicle fueling and maintenance activity restrictions, will be employed to reduce the discharge of pollutants in storm water runoff from the site.

Offsite Water Quality Standards Mitigation Proposed:

- The County of Orange will eradicate 0.21 acres of invasive plant species through participation in the Santa Ana River *Arundo* Removal Project.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be



implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2009-0009-DWQ, commonly known as the Orange County Municipal Storm Water Permit. Order No. R8-2009-0009-DWQ requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, until June 30, 2010, and with Order No. 2009-0009-DWQ thereafter, including the preparation of a SWPPP.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at: [www.waterboards.ca.gov/santaana/pdf/03-61.pdf](http://www.waterboards.ca.gov/santaana/pdf/03-61.pdf).

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), the County of Orange adopted a Mitigated Negative Declaration on February 2, 2010. The Executive Officer has considered the County's Mitigated Negative Declaration in the issuance of this Certification.

**This 401 Certification is contingent upon the execution of the following conditions:**

1. The discharger must maintain a copy of this Certification at the project site during construction.
2. The discharger must implement an effective combination of best management practices to maintain or restore the beneficial uses and physical integrity of the waters of Harding Creek and downstream waters to which Harding Creek is tributary. The discharger must implement a corresponding post-construction monitoring program to assure that the proposed project does not result in permanent impacts to the water's beneficial uses or physical integrity.
3. The discharger must re-vegetate riparian waters of the State with appropriate native riparian plants as proposed.
4. The discharger must eradicate 0.21 acres of invasive plant species in the Lower Santa Ana River Watershed. The eradication effort must occur according to published and generally accepted practices and include a minimum of 6-years of follow-on maintenance. The initial eradication work must start within 12-months of the start of the proposed project. Documentation of the location of the mitigation site(s) and certification that the eradication effort is being completed solely in satisfaction of State and Federal permits, licenses, or authorizations for the repairs associated with the Wilkinson Bridge repair project, must be submitted to the Executive Officer not later than August 24, 2010.



5. Pre-construction ground elevations will be restored upon completion of work.
6. OCPW will complete a California Rapid Assessment Method (CRAM) assessment of the proposed project area prior to construction of the project. CRAM assessment findings shall be uploaded and posted using the California Wetlands Tracker website at: [www.wetlandtracker.org/tracker](http://www.wetlandtracker.org/tracker)

**Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:**

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.



March 3, 2010

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at [www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf](http://www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf).

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert  
State Water Resources Control Board, OCC – Erik Spiess  
State Water Resources Control Board, DWQ-Water Quality Certification Unit – Bill Orme  
California Department of Fish and Game – Naeem Siddiqui  
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini

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